

August 6, 2002

Joseph Bodanza, Jr.
Senior Vice President
Finance Operations and Regulatory Affairs
KeySpan Corporation
One MetroTech Center
Brooklyn, NY 11201-3851

RE: Boston Gas Company, D.T.E. 02-37 (Request to Extend PBR Plan)

Dear Mr. Bodanza:

On November 29, 1996, the Department of Telecommunications and Energy ("Department") approved a five-year performance-based ratemaking plan ("PBR Plan") for Boston Gas Company, which presently does business as KeySpan Energy Delivery New England ("Boston Gas" or "Company"). Boston Gas Company, D.P.U. 96-50 (Phase I) (1996). By letter dated May 21, 2002 ("Letter"), Boston Gas requested permission to extend the PBR Plan for an additional year. The matter was docketed as D.T.E. 02-37. Pursuant to notice duly issued, the Department requested written comments on the Company's request and held a public hearing on July 26, 2002.

Boston Gas argues that extending the PBR Plan for one year provides continuity until such time as it files a proposal in 2003 that both addresses the Company's "substantial" revenue deficiency and extends or modifies the PBR Plan (Letter at 1-2). The Attorney General argues that the Department should reject the Company's request because implementation of the request would permit a rate increase without an investigation by the Department (June 24, 2002 Comments at 2). The Division of Energy Resources also argues against the Company's request because it may permit a rate increase without an investigation by the Department (Tr. at 5-6). Boston Gas responded to the opposition to its proposed one-year extension by stating it is

within the Department's discretion to approve a one-year extension (July 2, 2002 Response at 3-12).

The Department agrees with the Company that the disposition of the Company's request to extend the PBR Plan for one year is an exercise of our discretionary powers. See, e.g., G.L. 164, § 94; Boston Gas Co. v. Dept. of Telecommunications and Energy, 436 Mass. 233 (2002). However, the Company's argument that interests of continuity mandate the extension is not persuasive.

In approving the term of the PBR Plan for five years, the Department stated that depending upon the results of an evaluation conducted by the Department, the PBR Plan "may be extended without modification for an additional term, extended with modifications, or terminated." D.P.U. 96-50, at 320. As a prelude to this evaluation, the Department directed Boston Gas to file a proposal to succeed the PBR Plan by September 15, 2001. Department Letter to Robert J. Keegan, Esq. dated August 23, 2001. The Company did not do so. Instead, the Company has stated that it intends to file a successor PBR proposal in 2003. It is at that time, then, that the Department will conduct the requisite evaluation into both the PBR Plan and its proposed successor plan. Therefore, the Department rejects Boston Gas' request for a one-year extension of its PBR Plan.

By Order of the Department,

Paul B. Vasington, Chairman

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner